

Submission to the
Inquiry into University Governance
of the Senate Education and Employment Legislation Committee by
Dr Robert Czernkowski

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A. Who I am

My name is Robert Czernkowski. I am an academic at the University of Technology Sydney and from November 2024 serve a 2-year term on the governing body of the university, the University Council. My academic background is in accounting, principally financial accounting, auditing and analytics, and I have taught and researched in this area for coming up to 40 years.

Although I have consulted with other present and past elected members of my university's governing body, I make this submission solely based on my experience with my institution, and this submission should not be taken as speaking on behalf of anyone other than myself.

B. My broad philosophy of governance

I have been involved in university governance since the commencement of my academic career. In 1986 while a tutor (the current term is often *associate lecturer*) at the University of Tasmania, meetings of the Faculty (i.e. all academic staff) were regular, and that was where strategic and operational decisions were made and delegated to the Dean. From 1989-2005 I worked at the University of NSW where I participated in various committees and working groups, principally at the faculty level. As I moved across to the University of Sydney (2006-2008) and now UTS (2009-), I have become more involved in detailed governance at faculty and now at university level.

My view is that – over this period – the effectiveness of university governance has been diluted, chiefly through corporatisation of universities without a concomitant corporatisation of accountability. Governance effectiveness chiefly, as I view it, relates to the ability and willingness of university governing bodies to hold their executives to account for the latter's performance in facilitating the twin-missions of research and teaching.

To-date, Australia has straddled the fence, neither committing to fully corporatised universities with fully corporatised governance and accountability, nor to the more traditional form of governance where trust was put in the historical stakeholders of The University to hold it accountable to its mission.

C. Response to Terms of Reference - TOR 1a:

“The composition of providers' governing bodies and the transparency, accountability and effectiveness of their functions and processes, including in relation to expenditure, risk management and conflicts of interest;”

Positive Aspects of UTS Council

All responses in this document, I speak in my personal capacity based on my experiences at UTS and elsewhere. UTS Council does many things well. Compared to other universities, at Council there is no bullying, conflicts of interest are managed appropriately, and meetings are professionally run with respectful engagement. However, these procedural strengths do not compensate for the deeper structural flaws in the overall Australian university governance model.

Structural failure in University Governance

University governing bodies, as currently structured, are fundamentally ill-equipped to meet their objectives. Were universities corporate entities, many governing bodies would have long since resigned in embarrassment. Conversely, under the traditional pre-Dawkins governance model, many members would struggle to be re-elected. Both models – corporate and collegial – offer mechanisms for comprehensive accountability. The current hybrid, however, does not.

The Accountability Gap

The core issue lies with external members of governing bodies. Whether appointed by the minister or by the board itself (a self-perpetuating process), these individuals often lack meaningful stakes in the institution.

With no "skin in the game," their oversight tends to be perfunctory, and their sense of accountability minimal.

When I joined the UTS Council, the university generously enrolled me in governance and finance courses through the Australian Institute of Company Directors (AICD). These reinforced what I had already learned from prior board experience¹: fiduciary² responsibility demands a healthy and active scepticism toward management and its reports.

Even before attending the AICD course, I proactively met with most Deans across the university. I considered it essential to develop a broad understanding of the institution and to ensure that my governance approach wouldn't be narrowly shaped by my own faculty experience. Such conversations serve as a vital reality check against the filtered information provided by management.

To my knowledge, few other Council members have taken similar steps. One of my predecessors as elected Council member even wrote to an external member in frustration pointing out that, if fiduciary duty is interpreted merely as reading papers and attending meetings, then meaningful governance is impossible.

Governance Culture and Strategic Blind Spots

At my first Council meeting, I was struck by the atmosphere of groupthink. The Vice-Chancellor sets the agenda, and deviations are subtly discouraged. The Chancellor frequently reminds us that Council's role is strategic, not operational. As a result, virtually all discussions on operational matters – often the clearest indicators of strategic success – are quickly shut down.

This is deeply problematic. Strategy cannot be meaningfully evaluated without reference to operational outcomes. Since the Vice-Chancellor controls what is reported to Council, we lack a full picture of the consequences of our decisions and the broader organisational culture. Without the ability to probe operational implications, Council cannot fulfil its responsibilities.

Key Issues and Experiences – Reality Checks from Within the Institution

- My university's cost accounting system is so structurally weak that its design wouldn't earn a pass for a second-year accounting student. Had academics been allowed on the Finance Committee, these flaws would have been identified early. Despite being qualified accountants, both my immediate predecessor and I were excluded from the committee – until recently, when I was finally "permitted" to attend a meeting ten months into my term.

Key Issues and Experiences – Genuine Accountability

- Council members have extremely limited access to areas and processes of the university. In the absence of such access, oversight remains superficial.

Key Issues and Experiences – Self-Perpetuating Bureaucracy

- I was surprised some time ago to learn that some Council members are appointed by the Council itself. This practice discourages fresh perspectives and tends to reproduce the demographic and ideological makeup of existing members.

Key Issues and Experiences – Corporatised Form, Absent Consequences

- While Australian universities have moved to a corporatised structure over the last few decades, they lack the accountability mechanisms of corporate governance. Rarely do executives face consequences for their performance through the oversight mechanisms of Councils or Senates. Instead, consequences are exacted only when University issues enter into the broader public arena (as with ANU at the moment). This involves much conflict, loss of focus and uncertainty that any appropriate resolution will result. Thus, political means for achieving accountability are costly, disruptive and impact upon the reputation of academia as a whole. Where governing bodies function properly (not being "captured by" the executive), accountability has more proximal consequences and so the costly process of political enforcement is avoided.

¹ I have served on many not-for-profit associations, and on two non-shareholder but for-profit entities.

² I use the word "fiduciary" twice in this submission. In doing so, I acknowledge that I do not use it in the strict legal sense of an explicit legal form of trust. I use it, nonetheless, to emphasise strongly that the governing custodians of a University (its Senate or Council) have a strong responsibility to society in general, through acting for society in exerting responsible governance.

Key Issues and Experiences – Incentive Misalignment

- External members rarely investigate or engage deeply. When I communicated an invitation to some members to meet with professors in the faculties, one responded, “I don’t think that would be appropriate.”

Key Issues and Experiences – Governance by the Scholarly Community

- In earlier academic models, Vice-Chancellors and Deans were elected and required to return to their professorial roles before seeking external employment. This ensured they bore the consequences of their decisions – an alignment of incentives that is now absent. This is a direct result of the hybrid model which combines corporate management with non-corporate (or functionally absent) accountability.

Key Issues and Experiences – Staying Grounded

- Senior academic leaders argue that their management roles restrict them from participating in teaching and research. Yet memory is selective, and the more distant they are from the front lines of the University, the more disconnected they are from understanding the ever-changing challenges of mission of universities. Without keeping their understanding of the institution grounded, there is little to prevent governance from being shaped by their selective memory or stylised narratives.

Key Issues and Experiences – Freezing Out

- During all of my other board memberships, there have been informal meetings and discussions outside of formal board meetings. This type of interaction assists with a mutual understanding and helps develop more nuanced comprehension of the business of the entity beyond that which can be gleaned from formal board meetings. When I joined the UTS Council, I emailed every incumbent Councillor, suggesting that we meet for a coffee. With one exception, none replied. Initially I interpreted this as the freezing-out of elected members. However, I recently spoke with a former member of the University of WA Senate:- he told me that he initially had the same feeling and only eventually realised – a year and a half into his term – that such background discussions, which happen around most boards, do not seem to happen around University governing bodies. This underscores the extent to which oversight is perfunctory.

D. Response to Terms of Reference - TOR 1b:

“The standard and accuracy of providers' financial reporting, and the effectiveness of financial safeguards and controls;”

Having joined Council as an elected member, I have found that I have become a lightning rod for members and staff of the university to communicate matters to me. I have had confidential discussions with members of the University's professional staff, indicating that internal controls over expenditure and financial reporting have been weakened over the years. The persons who provided this information to me did so confidentially and I was unable to act on this information as it would put people's employment at risk.

To summarise the overall message I have received: internal controls in the forms of checks and balances have been in some cases diluted, and in some cases totally removed.

I have also been fortunate to have been approached by some members of staff who have left the institution but continue to care about the quality of educational experience that our students receive, and about the quality of research done. My institution has substantial problems in procurement and management. An example which was recently brought to my attention was the inability to pay market rates for information technologists, resulting in chaos in IT investment and maintenance, such as deployment of and payment for redundant/duplicate technologies.

I have tried to bring these matters to the attention of committees of Council, but the overall impression I get is that they do not want to know about the details and certainly do not want to be in the position of criticising the Vice-Chancellor.

I have met with and spoken to members of the Audit Office of NSW, which is responsible for auditing my institution. Although they were very helpful, they did note that they were only concerned with accuracy of the financial statements. Systemic failures in procedures and controls are not reported as part of the audit but merely included in a broad review of sectoral weaknesses in a report which does not identify individual institutions.

E. Response to Terms of Reference - TOR 1c:

“Providers' compliance with legislative requirements, including compliance with workplace laws and regulations;”

Compliance with legislative requirements is essentially performative box ticking.

As I write this in August, UTS is currently in a conciliation process with the Fair Work Commission where it was asked to share certain documents about its *Operational Sustainability Initiative* (OSI) with employees. Rather than an open and transparent provision of data for any staff member to be able to consider, the institution has scheduled “workshops” where union representatives are allowed to examine those documents without taking them away. It is unclear whether non-union staff have participated.

Of major concern, however, is that highly redacted documents are being made available under a very limited timeframe, making it very difficult to fully analyse them or to make any comment. The process is certainly not one of two-way communication – instead, staff representatives are invited to peruse the documents, with minimal ability to analyse, let alone communicate concerns.

It seems that compliance is with the letter rather than the spirit of the conciliation process. With a university being a community of scholars, a more appropriate mechanism would have been for extensive consultation during the formulation of the OSI, rather than reactively, as in this case. One could characterise the existing process as documents being quickly “waved” in front of academics while the latter are invited to analyse them.

If UTS wished to express its genuine commitment to openness and transparency, all documents (with appropriate redactions of personal information) would simply have just been published on the UTS website. I also note that certain documents, even though subject to GIPA³ requests, were heavily redacted. From context, the nature of some of the redacted content could be inferred. UTS has gone much further than just redacting personal details. Indeed, some of the redactions seem directed at camouflaging the low quality analysis provided by external consultants.

The way in which data is reported to Council is also of some concern. There is an effective health and safety reporting process, including reporting of days of sick leave taken etc. However, staff may have applied for sick leave due to genuinely being sick but supervisors have refused to approve that sick leave. Yet, for health reasons, the persons had no choice but to be absent. The lack of supervisor approvals has two implications:

- firstly, the employee will ultimately be held accountable for work not done when absent;
- secondly, as Council obtains data on approved sick leave taken, the lack of approval at the supervisor level has a potential to result in misleading statistics being provided to Council.

F. Response to Terms of Reference - TOR 1d:

“The impact of providers' employment practices, executive remuneration, and the use of external consultants, on staff, students and the quality of higher education offered; ”

Consultants

This matter is one that is common Australian Universities. There is excessive reliance on external consultants, whose product quality varies. At the date of writing this submission, I have recently (last week) examined a consultant's report received in support of UTS's *Operational Sustainability Initiative*. This report made many dubious assumptions and contained blatant errors. More significantly, the report was not a report as such but merely a collection of PowerPoint slide decks.

Comparing this to internal analysis of UTS's financial strategy prepared by a group of business academics, the consultants' report seems quite amateurish, even though they have access to a whole host of data that the group of academics does not. Upon seeing a set of slide decks and asking to see the report itself, I was informed that the slide decks were the report. This is the basis on which multimillion dollar decisions are being made.

³ [Government Information \(Public Access\) Act 2009](#) – this is the NSW freedom of information legislation for government and public institutions.

Even more disconcerting is that the external consultants do not necessarily understand how universities work. They are not aware of the interdependencies between programmes and seem to have, for example, concluded that subject are duplicates merely because the subject names are similar.

Executive compensation

Executives are paid for many things, chief among which is balancing risk and return over the economic cycle. High remuneration for executives compensates for the possibility that the executives may have to resign or be fired when they make bad decisions. At universities, there is no pressure on executives to resign for sub-standard performance or incompetence, so it is unclear what role this high compensation is intended to play.

Deans and even heads of departments receive performance bonuses. It is unclear to outsiders how such performance is assessed. Although remuneration is clearly not unimportant, the idea that a Dean's performance can be singled out and distinguished from inside the joint production function which includes many educators and researchers, the university's marketing unit, etc. is frankly risible.

Incentive alignment

Of more concern is the fact that appointments of (usually) professors to Dean positions usually requires them to give up their substantive professorial appointments. Thus, when a Dean's appointment ceases, he/she is effectively unemployed. This is the exact opposite of incentive alignment. Under this system, Deans are effectively incentivised to keep the Vice-Chancellor happy. In contrast, in the pre-Dawkins period Deans would be required to stay with their institution for a period after ceasing their Dean appointments. Thus, the old incentive to care about the long-term sustainability of the institution and to speak frankly has been replaced by a short-term incentive to tell the Vice-Chancellor what he or she wants to hear.

I have heard of many other stories where decision makers or professionals at various levels have been frozen out because the correct information they provided was not consistent with what their superiors **wanted to hear**.

G. Response to Terms of Reference - TOR 1e:

"Any related matters"

In the above points, I have addressed the terms of reference to the best of my ability in relation to my experience. Although these partly overlap, I hope that they give Senators a taste of the key issues. I turn now to make some suggestions for a way forward for university governance.

H. The way forward – key principles for university governance

Many aspects of university governments are a direct result of the way that universities have come to be financed over the last two to three decades. The relationship between society, as represented by the Commonwealth and various state governments, is beyond the scope of this inquiry and so I do not address these issues.

Principle 1

Deans and Vice-Chancellors should be elected from the Professoriate by academics – from the relevant faculty or from across the university, respectively – who have a continuing appointment at Level B (Lecturer) or above. Any person elected to such a position will have a contractual obligation to return to their previous substantive position for a period of at least year after the cessation of their elected role.

The key point here is the principle rather than the details. For example, instead of professors we could say professors and associate professors and any other academics who have served at the institution for, say, 10 years. Seniority and experience are not necessarily correlated with research output, whereas the promotion or appointment to the professoriate is generally research related. Being a good researcher does not necessarily translate to being a good manager of details, but it can translate to having a commitment to the mission of the university, and so to manage those with relevant expertise.

It is inappropriate to compare the position of Vice-Chancellor to a CEO with management expertise in the corporate sector. Professional staff with relevant expertise are appointed to assist the leaders of the University in dealing with the complexity of an economically large organisation. However, similar to the way that in western democracies the military must be subject to civilian oversight and thus ensure that the ethos of society dominates and controls the role of the military, the only people fully able to comprehend the mission of the university are persons committed to its research and teaching mission. This will include people

who are both excellent researchers and teachers but can also include people who are excellent in one of these but have great respect and support for the other. These are academics.

Principle 2

There should be a governing body known either as the Council or Senate which has oversight of and exerts accountability on the Vice-Chancellor as CEO and his executive team. This governing body should consist of representatives of the three types of members of University as a community of academic scholars:

- academic scholars (academics performing research or teaching);
- student scholars (scholars engaging in an educational process to develop themselves as members of society);
- alumni scholars (scholars who have moved into the workforce generally but whose personal reputation embodies value derived from their university degree(s), and hence strongly motivates them to ensure that the reputation of their university be maintained or improved).

Given the nature of experience of these three groups, an appropriate split across academics/students/alumni might be 45/15/40. Pre-Dawkins, these were the “members of the university”. As a general rule, on any issue such as integrity or financial sustainability or reputation, two out of these three groups could be relied upon to coalesce in support of the best interests of the institution.

Principle 3

The expertise of academics in the University should be recognised and used for the benefit of the institution.

Consultants hired to advise universities often have limited experience of universities as a distinct type of institution, as compared to the experts who work in, research in, and teach in the relevant disciplines.

Universities are not corporations in the business sense. Accordingly, the blind copying of solutions which work in commerce, without an understanding of the complexity of universities, can potentially lead to outcomes which do not match the way these institutions work. External consultants thus should be subject to oversight by appropriate academic and professional staff of the University – not just those from the central executive, but reflecting all academics’ role not merely as employees, but as part of self-governing scholarly institutions.

Principle 4

Any member of the university governing body (Council or Senate) should have unfettered access to visit any part of the university or observe any process, with the exception of places which require safety induction processes.

As a member of Council, I must be across not just the summary financial and other reports which Council receives, but I must also be able to dig into the detail and nuance. Yet my University seems to have an implicit policy of not appointing elected members to Council’s Finance Committee, and I have had to explicitly ask for permission to attend an individual meeting of the Council’s Finance Committee. This is an explicit barrier in enabling me to carry out my duties as a member of Council.

Principle 5

A Vice-Chancellor’s pay should be limited to twice the pay of a professor or the pay of the Prime Minister of the Commonwealth, whichever is the greater.

It has been said that great managers surround themselves with people smarter than themselves. It is not the role of a Vice-Chancellor (VC) to be all things to the institution. Instead, the VC has the ability to hire non-academic experts into executive roles to manage the University. Ultimately, the VC is the senior academic, tasked with ensuring that the institution is professionally managed.